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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,346	11/08/2001	John Lawrence Bowers	P64258US2	8502
32692	7590	09/15/2005	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			RIVELL, JOHN A	
			ART UNIT	PAPER NUMBER

3753

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

T-23

Office Action Summary	Application No.	Applicant(s)	
	09/986,346	BOWERS, JOHN LAWRENCE	
	Examiner	Art Unit	
	John Rivell	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/23/05, 6/16/05 (Oath), 7/14/05 (IDS).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 17, 19-25, 41, 43-47, 49-54, 64, 66-70, 72-96, 100-104 and 108-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16, 17, 19-25, 41, 43-47, 49-54, 70, 72-96, 100-104 and 108-120 is/are allowed.
- 6) ☒ Claim(s) 64, 67 and 69 is/are rejected.
- 7) ☒ Claim(s) 66 and 68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/686,839.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05032005, 07142005</u> | 6) <input type="checkbox"/> Other: _____ |

The indicated allowability of claims 64, 67 and 69 is withdrawn in view of the newly cited reference(s) to Cover (U.S. Pat. No. 2,105,183 cited by applicant).

Rejections based on the newly cited reference(s) follow.

By amendments filed in this application, claims 1-15, 18, 26-40, 42, 48, 55-63, 65, 71, 97-99, 105-107 and 121 have been canceled. Claims 16, 17, 19-25, 41, 43-47, 49-54, 64, 66-70, 72-96, 100-104 and 108-120 are pending.

The supplemental Oath, filed May 23, 2005 (a copy of which was filed June 21, 2005) has been received and appears acceptable.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 64, 67 and 69 are rejected under 35 U.S.C. §102 (b) as being anticipated by Cover (U.S. Pat. No. 2,105,183 cited by applicant).

The patent to Cover ('183) discloses a "filter face mask that comprises: (a) a mask body (11) adapted to fit over a nose and a mouth of a wearer; and (b) an exhalation valve (figures 3, 5, and 6) mounted to the mask body, the exhalation valve comprising a flexible flap (23) and a valve seat (surface of plate 17), the flexible flap (23) being mounted to the valve seat (at 17) in cantilever fashion (the valve element 23 is mounted by attaching the mid portion at holes 24 of the valve to the plate 17 at holes 20 by pins 21. As such this mounting arrangement forms a hinge area at the mid point of the valve element thus effectively forming two valve elements) such that it has a

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longitudinal dimension (extending from the hinge area to the upper and lower extremities), (either one of the) the flexible flap having a free end (opposite the hinge area) that rests upon the valve seat (e.g. the mating surface of plate 17) when closed, the flexible flap exhibits a curvature in a direction transverse to the flexible flap's longitudinal dimension (as exemplified by the concavity exhibited in figure 2, extending along the plane of the hinge area), the transverse curvature biasing the flexible flap to assist in closing the valve in the absence of an opening pressure differential across the flexible flap, under any orientation of the valve (as disclosed at page 2, lines 8-52 of Cover ('183), wherein the flexible flap has a transverse curvature at the location where the flexible flap is mounted to the valve seat" as recited.

In the device of Cover ('183), although not explicitly illustrated in the figures, the mask 11 is considered to be positionable over the nose and mouth of the wearer since Pat. No. 2,105,183 is disclosed as being an improvement over a previous application (Serial No. 722,619) which matured into U.S. Pat. No. 2,112,270 cited herein which fully discloses that the mask 11 would be located over the nose and mouth of the wearer.

Regarding claim 67, in Cover ('183), "the transverse curvature is imparted to the flexible flap (23) by virtue of its mounting to the valve seat" as recited.

Regarding claim 69, in Cover ('183), "the exhalation valve is so located on the mask such that during normal head movements of a wearer, the free end of the (lower) flexible flap (of the two) is generally directed downward" as recited.


Claims 16, 17, 19-25, 41, 43-47, 49-54, 70, 72-96, 100-104 and 108-120 are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John Rivell
Primary Examiner
Art Unit 3753

j.r.